



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/001,710	10/31/2001	Shlomo Ben-Haim	20066-86	3830
26418	7590	05/27/2004	EXAMINER	
REED SMITH, LLP ATTN: PATENT RECORDS DEPARTMENT 599 LEXINGTON AVENUE, 29TH FLOOR NEW YORK, NY 10022-7650			LAYNO, CARL HERNANDZ	
			ART UNIT	PAPER NUMBER
			3762	

DATE MAILED: 05/27/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Supplemental  
Notice of Allowability**

Application No.

10/001,710

Applicant(s)

BEN-HAIM ET AL.

Examiner

*Carl H. Layno*  
Carl H. Layno 5/25/04

Art Unit

3762

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to Paper No. 04/29/2004.
2. ☒ The allowed claim(s) is/are 9-17.
3. ☒ The drawings filed on 31 October 2001 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All b) ☐ Some\* c) ☐ None of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).
  - \* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.  
**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
6. ☐ CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
  - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached
    - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
  - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO-1449 or PTO/SB/08),  
Paper No./Mail Date 04/29/2004
4. ☐ Examiner's Comment Regarding Requirement for Deposit  
of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413),  
Paper No./Mail Date \_\_\_\_\_
7. ☐ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_

## **SUPPLEMENTAL ACTION**

### ***Information Disclosure Statement***

1. Acknowledgment is made of applicant's Supplemental Information Disclosure Statement (PTO-1449) which was received by the Office on April 29, 2004.

### ***Allowable Subject Matter***

2. Having reviewed applicant's newly submitted prior art patents, the Examiner still deems claims 9-17 to be allowed over the prior art of record.

### ***Reasons for Allowance***

3. The following is an examiner's statement of reasons for allowance:

Of the seven newly submitted prior art references in applicant's Supplemental Information Disclosure Statement (PTO-1449), which was received on April 29, 2004, only the Sherlag '642 patent describes a stimulation device capable of generating "non-excitatory" stimulus signals. Unlike applicant's claimed apparatus, that of Sherlag is used to relieve symptoms of heart block – a function opposite to that intended by the applicant (i.e. causing a reversible heart block as a precursor to surgery). As a result of this difference, the Examiner still deems claims 9-17 to be allowed over the prior art of record.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue

Application/Control Number: 10/001,710

Page 3

Art Unit: 3762

fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

A handwritten signature in cursive script, reading "Carl N. Layno", is written over a horizontal line.

CARL LAYNO  
PRIMARY EXAMINER

CHL

5/25/2004